

Section 1

- I. Public Act 95-0700 authorizes the Commission “to establish retail choice and referral programs to be administered by an electric utility or the State in which residential and small commercial customers receive incentives, including, but not limited to, discounted rate introductory offers for switching to participating electric suppliers.”

1. Please state the benefits you anticipate from establishing retail choice and referral programs.

BLUESTAR ENERGY RESPONSE: Greater awareness on the part of customers as to the availability of competitive electric supply.

2. What are your concerns relating to the creation of such programs?

BLUESTAR ENERGY RESPONSE: Administration of those programs, in particular the utility employees that have contact with customers. Without the provision of accurate, pro-competition information these programs will be doomed.

3. What are important characteristics of such programs?

BLUESTAR ENERGY RESPONSE: Providing simple choices and clear directions to those that call in. Perceived complexity or “riskiness” is most often the reason behind a retail customer opting not to explore the competitive electric market, and this program should seek to assuage (or at least not inflame) that type of concern.

4. Would you prefer these programs to be administered by an electric utility or the State? Please describe your preferred administration of these programs as detailed as possible.

BLUESTAR ENERGY RESPONSE: The most logical party to administer these programs is the local utility, working in partnership with the Office of Retail Market Development and the ARES. Scripts, documents, talking points, etc. that a utility intends to utilize in these programs should all be subject to approval and continuous re-evaluation by the ORMD.

5. From a procedural standpoint, what is the preferred manner in which the Commission would establish and/or approve such programs? Should these programs be part of an electric utility's tariff?

BLUESTAR ENERGY RESPONSE: BlueStar has no preference in this regard, provided that whatever the mechanism employed allows for easily-implemented corrections to the program based upon actual experiences.

- II. The statute describes three possible retail choice and referral programs as follows:

(1) An introductory fixed discount program in which suppliers participating in the program offer customers a fixed percentage discount off of the electric utility's supply rate for a set number of billing periods. Customers would be able to enroll in the program by using an online enrollment form, completing an enrollment card found in their monthly electric utility bill, or by calling a toll-free number. Customers would be free to withdraw from the program at any time and select another alternative retail electric supplier or return to the electric utility.

(2) A new customer program in which electric utilities would offer consumers initiating new electric service a choice of offers from participating electric suppliers to provide the consumer's electric supply service. Customers expressing a preference for a specific electric supplier would be enrolled with that supplier. Customers not expressing a preference for a specific electric supplier would be offered the opportunity to enroll with an electric supplier selected randomly on a rotating basis.

(3) A customer service call center referral program in which customers calling an electric utility's call center would be offered enrollment with an alternative retail electric supplier and informed that they have the option to receive immediate savings or introductory offers by participating in the referral program. Customers choosing to participate would be transferred to a customer service representative for the program and would either select the electric supplier from which they would like to take service or be placed with a participating electric supplier chosen at random on a rotating basis.

1. Please comment on the desirability of having any of these three programs implemented and what the role of the electric utilities, the participating suppliers, the Commission, and others, if any, should be.

BLUESTAR ENERGY RESPONSE: BlueStar views the third program as the most beneficial to consumers and to the development of competitive markets. The job of explaining competitive offerings is best handled by employees of competitive suppliers, and not those of the utilities. In addition, this would allow the competitive suppliers to offer different types of competitive programs that may be appealing to varying market segments (for example, one supplier may focus on a guaranteed discount against the utility rate while another may focus on green energy offerings). The Commission should resist mandating standardization and absolute uniformity of offerings as this would serve to stifle the creative solutions that only competitive market can provide.

2. Are there other retail choice and/or referral programs that you would like the Commission to consider? If so, please describe the characteristics of such programs in detail. For example, do you believe there should be other incentives and/or programs offered to low income consumers in Illinois? If so, should these be based on LIHEAP qualifications and what funding mechanism should be used?

BLUESTAR ENERGY RESPONSE: None at this time.

- III. The law further states that “reasonable costs associated with the implementation and operation of customer choice and referral programs may be recovered in an electric utility's distribution rates, except that any costs associated with any introductory discount for switching to a supplier shall be assumed by that supplier. Reasonable costs associated with the implementation and operation of a customer choice program may also be recovered from retail electric suppliers participating in a customer choice and referral program.”
1. Please describe your preferred cost recovery mechanism in detail.
BLUESTAR ENERGY RESPONSE: Actual costs of the program should be recovered by the utilities the same as any other prudently incurred expense.

Section 2

- I. Section 16-117 (b) of the PUA requires the Commission to “implement and maintain a consumer education program to provide residential and small commercial retail customers with information to help them understand their service options in a competitive electric services market, and their rights and responsibilities.”

While the initial implementation of the program was required to be done in the 1999-2002 time frame, Staff is interested in the possibility of re-focusing the education program. Section 16-117(j) states that “each year the General Assembly shall appropriate money to the Commission from the General Revenue Fund for the expenses of the Commission associated with this Section.”

Given that Section 16-117(k) requires the Commission to study the effectiveness of the consumer education program and complete such study “by January 31st of each year during the mandatory transition period”, Staff is interested in the parties’ assessment regarding the program’s continued statutory support.

Staff is encouraged by the fact that the General Assembly did not establish a sunset date for Section 16-117 when it originally enacted the Section as part of the Electric Service Customer Choice and Rate Relief Law of 1997 and that this Section was not modified or eliminated at any time subsequent to the end of the mandatory transition period, including the passage of Public Act 95-0481 last year.

1. Please explain whether the General Assembly should appropriate money to the Commission from the General Revenue Fund for the expenses of the Commission associated with Section 16-117.
BLUESTAR ENERGY RESPONSE: BlueStar takes no position on the appropriate funding mechanism for this issue.

2. If you do not believe Section 16-117 is a funding source for any type of a Commission consumer education program, please describe other potential funding sources.

BLUESTAR ENERGY RESPONSE: Not applicable.

3. Please describe the preferred Commission involvement in any consumer education program.

BLUESTAR ENERGY RESPONSE: BlueStar believes that the Commission should remain a source of readily accessible consumer information that furthers the goals of the Customer Choice and Rate Relief Act, which includes the development of competitive markets throughout the State. The operative question that should be asked each time the Commission acts is: Will this help consumers and expand customer choice?

4. Aside from any potential financial responsibilities, please also describe the preferred involvement of electric utilities, alternative retail electric suppliers, and others.

BLUESTAR ENERGY RESPONSE: Utilities should not be the stumbling block to competitive markets. Utility employees that interact with the general public need to be trained to provide accurate and unbiased information regarding competitive options in their service territories.

5. Besides printed materials and information published on public websites, what other specific mediums would you like to see used in such a campaign?

BLUESTAR ENERGY RESPONSE: Ideally, dissemination of this information would also occur through the mass media. Although paid advertising would probably be cost-prohibitive, the Commission should avail itself of the free media availability through increased use of press releases, press conferences and active solicitation of the mass media.

6. The Office of Retail Market Development is interested in creating an online place for consumers to compare offers of electric suppliers. The type of information displayed by the "Power To Choose" websites of Texas and New York as well as other sites such as the Pennsylvania Office of Consumer Advocate seem to be a good starting point.

- a. Please describe what type of additional information not found on those sites you would like to see for the Illinois market.

BLUESTAR ENERGY RESPONSE: The Texas model is a good starting point.

- b. Should the planned website display information for residential customers only?

BLUESTAR ENERGY RESPONSE: Because of load profile and related issues that may represent more material differences between businesses, it seems impracticable to provide a duplicate service on the commercial side. The ORMD could provide information, though, gathered from the ARES as to which suppliers are actively seeking customers in that particular rate class. This would eliminate some

customer frustration as there are certainly more licensed suppliers than there are actual active marketers.

- c. How often should the information be updated?

BLUESTAR ENERGY RESPONSE: It should be incumbent upon participating suppliers to provide information updates on a real-time basis as a requirement of participation.

- d. Does the Commission have the authority to require suppliers to provide their relevant service offerings on such a website? If you believe the Commission currently does not have such authority, please explain why Section 16-117(h) of the PUA would not give the Commission the authority to do so.

BLUESTAR ENERGY RESPONSE: Yes.

- e. In the event the information displayed on such a website is out of date, should the Commission (and does the Commission have the authority to) require the supplier to provide requesting customers the opportunity to sign up for a service offering displayed on the website even if the supplier has subsequently modified or eliminated such an offering?

BLUESTAR ENERGY RESPONSE: BlueStar believes that the focus should be on incentivizing suppliers to maintain current information. For example, suppliers that fail to provide updated information could be suspended from participation in the program. BlueStar believes that there are substantive areas of contract law (as well as basic equities) that would prevent the Commission from enforcing such a policy as described.

- II. Section 16-117(h) of the PUA states that “the Commission may also adopt a uniform disclosure form which alternative retail electric suppliers would be required to complete enabling consumers to compare prices, terms, and conditions offered by such suppliers.” Assuming you agree that Section 16-117’s legal standing has not changed following the end of the mandatory transition period, please comment on the following:

1. If the Commission were to adopt such a uniform disclosure form, what specific items should be on the form?

BLUESTAR ENERGY RESPONSE: In addition to all relevant pricing components, information regarding term, early termination fees, billing options, customer service contact information, evergreen clauses and any relevant environmental attributes if that is a component of the product.

2. Do you agree, given that the items on the disclosure form would differ from offer to offer, that an ARES will have to complete such form for each product it offers at the time?

BLUESTAR ENERGY RESPONSE: Yes.

3. Should this disclosure form be completed for residential offerings only?
BLUESTAR ENERGY RESPONSE: Given the idiosyncratic nature of commercial offerings, it would seem difficult to generate standardized forms in the non-residential sector.
4. In addition to the planned website mentioned above, do you believe the Commission should make this type of information available in printed form and how should the material be made available?
BLUESTAR ENERGY RESPONSE: This information should be limited to the internet. Not only is that more environmentally responsible, it will allow for more frequent updating without the risk of the Commission accidentally supplying outdated information to consumers.
5. If so, how often should this printed material be updated?
BLUESTAR ENERGY RESPONSE: Not applicable.
6. The Texas PUC recently adopted proposed changes to its requirements for information disclosures by retail electric providers.¹ Among other changes, it proposed to create definitions for different types of contracts and proposed to prohibit retail electric providers from using the term “fixed” when marketing products that do not meet the two approved fixed price product definitions.

If the ICC were to adopt similar requirements, do you believe the proposed definitions of the Texas PUC are a workable starting point for definitions applicable to the Illinois market? If not, what changes would be appropriate? In particular, please comment on ways to reflect the structural differences when it comes to the manner by which transmission and distribution service charges are billed and collected in Texas.

BLUESTAR ENERGY RESPONSE: Conceptually the Texas definitions would appear to be helpful to consumers in Illinois. There are obvious changes that would be necessary given the PJM/MISO footprint in Illinois, but this would appear to be a good tool for Illinois consumers.

- III. Section 16-115A(e) of the PUA requires ARES to ensure that “any marketing materials which make statements concerning prices, terms and conditions of service shall contain information that adequately discloses the prices, terms and conditions of the products or services that the alternative retail electric supplier is offering or selling to the customer.” It further states that “before any customer is switched from another supplier, the alternative retail electric supplier shall give the customer written information that adequately discloses, in plain language, the prices, terms and conditions of the products and services being offered and sold to the customer.”

¹ <http://tinyurl.com/595jhn>

In addition, Section 505/2EE of the Consumer Fraud and Deceptive Business Practices Act states, among other things, that “an electric service provider shall not submit or execute a change in a subscriber's selection of a provider of electric service unless and until the provider first discloses all material terms and conditions of the offer to the subscriber [...]” and it further states that “[...]the terms, conditions, and nature of the service to be provided to the subscriber must be clearly and conspicuously disclosed, in writing, and an electric service provider must directly establish the rates for the service contracted for by the subscriber [...]”

1. Does Section 16-115A(e) and/or Section 505/2EE of the Consumer Fraud and Deceptive Business Practices Act give the Commission authority to require ARES to comply with disclosure obligations similar to Texas’ Terms of Service document, the Electricity Facts Label, and the Your Rights as a Customer document?

BLUESTAR ENERGY RESPONSE: BlueStar takes the position that ARES are required to comply with the statutory language quoted, but that the format of such compliance is not one that can be exactly dictated by the ICC under existing law. BlueStar believes, however, that if the ICC or the ORMD were to spearhead an effort to create voluntary disclosure guidelines then the uniformity desired by the Texas rules may be achieved in a more timely and cost-effective manner.

2. If you believe the Commission has the authority to create similarly detailed disclosure requirements, please indicate how they should differ from the Texas rules.

BLUESTAR ENERGY RESPONSE: Not applicable.

3. Given that Section 16-115A of the PUA does not give the Commission explicit rulemaking authority pursuant to that Section, please state where such requirements could be incorporated or created.

BLUESTAR ENERGY RESPONSE: Not applicable.

- IV. 83 Ill. Adm. Code §451.60 allows applicants or ARES to request that the Commission enter an order to protect the confidential, proprietary or trade secret nature of any data, information or studies pursuant to 83 Ill. Adm. Code 200.430 if the applicant or ARES believes any of the information to be disclosed by an applicant or ARES is privileged or confidential. Typically, an ARES uses Code Part 451.60 to request confidential treatment for its annual call center report (filed pursuant to Code Part 410.45).

1. Please explain whether you believe that the Commission should generally grant such requests for confidential treatment of annual call center reports.

BLUESTAR ENERGY RESPONSE: BlueStar believes that while there is merit in keeping such information as confidential, given that there is little value to such data with the general public, it is content to proceed either way, so long as there is absolute uniformity in its application. In other words, everyone gets the exemption or no one does.

2. If you do not believe such requests should be granted, please indicate and explain whether you think all of the items in the call center reports should be disclosed or only a subset of those reported.

BLUESTAR ENERGY RESPONSE: Not applicable.

3. Aside from the existing reporting requirements, is there any other type of periodic report that you believe would be beneficial in a competitive retail electricity market? If so, please indicate the Commission's authority to require such a report.

BLUESTAR ENERGY RESPONSE: BlueStar does not believe that any additional reports are needed at this time.

- V. Section 16-122(b) of the PUA states that "upon request from any alternative retail electric supplier and payment of a reasonable fee, an electric utility serving retail customers in its service area shall make available generic information concerning the usage, load shape curve or other general characteristics of customers by rate classification. Provided, however, no customer specific billing, usage or load shape data shall be provided under this subsection unless authorization to provide such information is provided by the customer [...]"

On the issue of providing a mass customer list to assist in retail market development, the Pennsylvania PUC adopted the following rule:

(a) An EDC or EGS may not release private customer information to a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information. Specifically, a customer may restrict the release of either the following:

(1) The customer's telephone number.

(2) The customer's historical billing data.

(b) Customers shall be permitted to restrict information as specified in subsection (a) by returning a signed form, orally or electronically.

(c) Nothing in this section prohibits the EGS and EDC from performing their mandatory obligations to provide electricity service as specified in the disclosure statement and in the code.²

1. Please explain whether Section 16-122 of the PUA would allow for a similar rule to be adopted by the Commission.

² 52 Pa. Code § 54.8., Privacy of customer information. EDC stands for Electric Distribution Company and EGS stands for Electric Generation Supplier.

BLUESTAR ENERGY RESPONSE: BlueStar believes that the current language of 16-122(b) would prohibit such a disclosure on an “opt-out” basis. An affirmative “opt-in” by a customer would seem to be adequate.

2. In Docket No. 07-0241/0242 Consol., the Commission recently directed Peoples Gas and North Shore Gas to provide alternative gas suppliers access to customer information. The Commission’s February 5, 2008 Order (starting at page 298) creates three different tiers of reports, with the type of information provided and the customer consent required varying across the three tiers.

- a. Please explain whether you believe a similar structure should be implemented for the retail electricity market.

BLUESTAR ENERGY RESPONSE: This would be useful information.

- b. Please explain whether Section 16-122 of the PUA would allow for a similar rule to be adopted by the Commission.

BLUESTAR ENERGY RESPONSE: This would seem to require active consent from customers, which would appear to conflict with current statutory language.

- VI. What provisions related to the operation of a competitive retail electricity market currently not found in the statute, in administrative code parts, utility tariffs, or other regulations would you like to see created?

For each proposed provision, please provide proposed language and the preferred mechanism to create such provisions.

For example, if you propose that all contracts for electricity service be printed on blue paper, please provide the proposed wording of such a requirement and indicate whether such a requirement should be part of a utility’s tariff (if so, which tariff section?), an existing or new administrative code part, or some other mechanism.

For each proposed requirement please state the Commission’s source of authority for doing so.

In addition, if you propose that certain requirements be part of a utility’s tariff, please also state whether you view that to be a permanent place for such requirements or if you propose that these tariff requirements be temporary until a permanent placement has been created.